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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,088

04/20/2006

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Q93076

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EXAMINER

O HERN, BRENT T

ART UNIT

PAPER NUMBER

1783

NOTIFICATION DATE

DELIVERY MODE

07/27/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

Office Action Summary	Application No. 10/567,088	Applicant(s) TEEUWEN, GERARDUS LEONARDUS MATHIEU	
	Examiner BRENT T. O'HERN	Art Unit 1783	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 12-14 is/are pending in the application.
 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/1/2010 has been entered.
2. Claims 1, 3-4 and 12-14 are pending with claims 12-14 withdrawn.

WITHDRAWN REJECTIONS

3. All rejections of record in the Office action mailed 11/30/2009 have been withdrawn due to Applicant's amendments in the Paper filed 6/1/2010.

NEW OBJECTIONS

Specification

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A

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COMPACT DISC.

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

5. Section headings including BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S) are not present.

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the Specification does not describe "said top surface having an undulating shape delimited by the shape of a bar grating" per claim 1. Page 2, lines 19-21 describe the grating being on the "bottom surface" and not the top surface. It is unclear whether the language in the Specification is in error or referring to an alternative embodiment or perhaps is the bread turned over so that the top becomes the bottom and the bottom the top.

7. Applicant is advised to consider adding a priority statement to the first paragraph of the Specification.

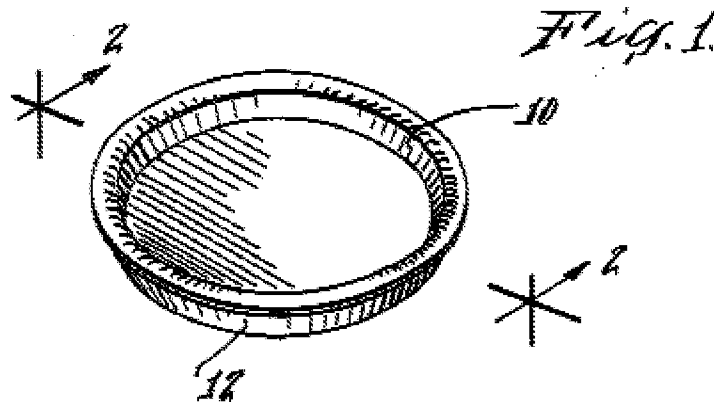
NEW REJECTIONS

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

9. Claim 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caporaso (US 4,435,434) in view of Peleg (US 4,841,112) and Korczynski (GB 2235614 A).

Regarding claim 1, Caporaso ('434) teaches an edible product (See FIGs 1-2 and col. 4, ll. 30-51, edible shell #10.)



comprising a body including an edible material (See col. 4, ll. 30-51.), the body having a crusty surface that has been obtained by heating (See col. 4, ll. 30-51, crusty baked shell.), the surface comprising a top surface, a bottom surface and a peripheral surface, wherein the body is provided with a central cavity having an opening and with a filling introduced therein after the central cavity has been produced (See FIG-1 and col. 4, ll. 30-51, pastry shell #10 with top, bottom and peripheral surface and central cavity.),

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however, fails to expressly disclose the top surface having an undulating shape delimited by the shape of a bar grating and the edible material including bread.

The phrase “delimited by the shape of a bar grating” does not further describe the configuration of the undulating shape as the language does not state the grating has flat bars, circular bar, triangular bars, widely/narrowly spaced bars, bars that are meshes, bars that have circular rings, bars that are spirally configured, bars that are heavy/dense, etc. There is not anything in the claims that indicate that the same shape can not also be created by a persons fingers, chopsticks, knives or some other tools.

Peleg ('112) teaches an edible, crusty, baked bread product with a cavity for food with an undulating shape (*See FIGs 2 and 5, col. 4, l. 43 and col. 5, l. 20.*) for the purpose of providing a food product having a desirable shape, is suitable for being transported and can be used in a microwave (*See Abstract and col. 4, l. 37 to col. 5, l. 32.*).

Korczynski ('614) teaches that crusted pie casings (*See Abstract, p. 5 and FIG- 5.*)

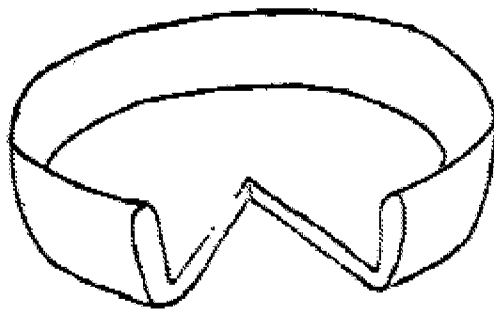


FIG. 5

like those taught by Caporaso ('434) can be made from pastry or bread (*See Abstract.*) for the purpose of providing a bread shell that can be filled as desired and eaten by

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hand (*See Abstract.*). Furthermore, it was known that people prefer to eat bread over pastries based on the filling placed in the cavity or personal preference or health reasons.

Therefore, it would have been obvious to provide Caporaso's ('434) product with an undulating shape as taught by Peleg ('112) and made out of bread as taught by Korczynski ('614) in order to provide a food product having a desirable pleasing wavy appearance and can be filled as desired and eaten by hand.

Regarding claim 3, Caporaso ('434) teaches wherein the lateral boundary walls of the central cavity are essentially smooth (*See FIG-1 and col. 4, ll. 30-51 essentially smooth walls of the cavity.*).

Regarding claim 4, Caporaso ('434) teaches wherein the central cavity tapers outwards towards the opening thereof (*See FIG-1 and col. 4, ll. 30-51, outward tapering central cavity.*).

ANSWERS TO APPLICANT'S ARGUMENTS

10. In response to Applicant's arguments (*See pp. 4-5 of Applicant's Paper filed 6/1/2010.*) regarding the amended claims, it is noted that the arguments are substantially directed to the amended claims and there are not any precise arguments regarding any of the prior art of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRENT T. O'HERN whose telephone number is

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(571)272-6385. The examiner can normally be reached on Monday-Thursday, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brent T O'Hern/
Examiner, Art Unit 1783
July 19, 2010